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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,288	07/09/2001	Taisuke Hirono	3005-29 (D5620-26)	7132

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EXAMINER

LEE, SEUNG H

ART UNIT PAPER NUMBER

2876

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,288

Applicant(s)

HIRONO ET AL.

Examiner

Seung H Lee

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Prelim. Amdt./Amendment

1. Receipt is acknowledged of the Preliminary Amendment filed on 09 June 2001.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berssen et al. (US 5,386,287)(hereinafter referred to as 'Berssen') in view of Fann (US 6,279,828).

Berssen teaches a computer (4) serving as a cuvette control unit comprising a reading device (3) for reading a first bar code (8) in which the first bar code is affixed to the chemical sensor (1), evaluating information/data that is read from the barcode using the reading device with computer wherein the computer is equipped with a memory for evaluating process (see figure; col. 3, lines 4-59).

However, Berssen fails to teach or fairly suggest that the barcode comprises a start code, a stop code, a code for information, and a code for inspection.

Fann teaches a one dimensional bar code comprising the start code, data portion of code, checksum code, and stop code (see Fig. 4; col. 5, line 44- col. 8, line 37).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Fann to the teachings of Berssen in order to provide an improved and an enhanced operation means wherein the reading device can start to decode information/data if the start code is detected and stop to decode if the stop code is detected. Moreover, such modification (i.e., the barcode is comprised with checksum code) would reduce the error in reading of barcode by comparing the value of information/data section of barcode with values of checksum code of barcode, and therefore an obvious expedient.

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7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berssen as modified by Fann as applied to claim 1 above, and further in view of Barker et al. (US 4,900,513)(hereinafter referred to as 'Barker').

The teachings of Berssen/Fann have been discussed above.

Although, Berssen/Fann teach the computer system having the reading device for reading the barcode, they fail to teach or fairly suggest that a second barcode is affixed on the cuvette box.

However, Barker teaches a loading apparatus (10) having a carousel (16) for receiving samples (16) wherein the carousel has barcode label (140) to identify the carousel and the samples that carousel carries therewith (see Fig. 1; col. 2, line 53- col. 3, line 12; col. 6, lines 3-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Barker to the teachings of Berssen/Fann in order to provide convenient means wherein the barcode on the cuvette box or carousel can hold additional information useful to operator(s)/user(s) such as serial number, data, time, location, etc. and therefore an obvious expedient.

Additional Remarks

8. The lack of an art rejection with this Office action is not an indication of allowable subject matter (i.e., even though the claim 7 is rewritten or amended to overcome the rejection under 35 U.S.C. 112 as discussed above). The disclosure/claimed language is such that it is impractical to conduct a reasonable search of the prior art by the Examiner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure;

Hendrix et al. [US 5,391,352] discloses a blood analysis apparatus,

Bell [US 4,729,661] discloses an asynchronous serial cuvette reader.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Seung H. Lee whose telephone number is (703) 308-5894. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax-phone number for this group is (703) 308-5841 or (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.lee@uspto.gov].


All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Seung H. Lee
Art Unit 2876
January 27, 2003



MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800